

2012 MAY 16 AM 11:47

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

§ CRIMINAL NO. SA-12-CR-478  
§ SA 12 CR 478  
§ INDICTMENT  
§



**[Vio: 18 §§ 554 & 2, Smuggling Goods From the United States & Aiding and Abetting - Count 1;  
18 § 922(g)(5), Possession of a Firearm by an Illegal Alien - Count 2;  
18 § 922(k), Possession of a Firearm with an Obliterated Serial Number - Count 3;  
8 § 1326, Illegal Re-entry into the United States after Deportation - Count 4; and, Notice of United States of America's Demand for Forfeiture.]**

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(18 U.S.C. §§ 554 & 2)

**JOSE FEDENCIO MENDEZ CADENA,**

**and,**

did knowingly facilitate the transportation and concealment and did aid and abet the facilitation of the transportation and concealment of merchandise, articles and other objects from the United States, knowing the same to be intended for exportation, contrary to law and regulation of the United States, in violation of Title 18, United States Code, Sections 554 and 2.

**COUNT TWO**  
(18 U.S.C. § 922(g)(5))

That on or about April 24, 2012, in the Western District of Texas, Defendant,

**JOSE FEDENCIO MENDEZ CADENA,**

being an alien illegally and unlawfully in the United States, did knowingly possess in and affecting commerce a firearm, to-wit: a Rugar, Model Blackhawk, .357 caliber pistol, serial number 37-22266, a Smith & Wesson, Model M&P-15 .223 caliber firearm with an obliterated serial number, two Windham Weaponry Model WW-15 .223 caliber firearms with obliterated serial numbers, a Global Tactical Model GT-AR15 .223 caliber firearm, serial number GT 0057, and a Bushmaster Model XM 15 .223 caliber firearm with an obliterated serial number, in violation of Title 18, United States Code, Section 922(g)(5).

**COUNT THREE**  
(18 U.S.C. § 922(k))

That on or about April 24, 2012, in the Western District of Texas, Defendants,

**JOSE FEDENCIO MENDEZ CADENA,**

**ROBERTO LOERA,**

**and,**

**JOSE DRISCOLL,**

did knowingly possess a firearm, to wit: a Smith & Wesson, Model M&P-15 .223 caliber firearm, two Windham Weaponry Model WW-15 .223 caliber firearms, and a Bushmaster Model XM 15 .223 caliber firearm, that had been shipped and transported in interstate commerce and from which the manufacturer's serial number had been removed and obliterated, in violation of Title 18, United States Code, Section 922(k).

**COUNT FOUR**  
(8 U.S.C. § 1326)

That on or about April 24, 2012, in the Western District of Texas, Defendant,

**JOSE FEDENCIO MENDEZ CADENA,**

an alien, attempted to enter, entered, and was found in the United States having previously been denied admission, excluded, deported, and removed therefrom on or about September 20, 2010, and that the Defendant had not received consent to reapply for admission from the Attorney General of the United States or the Secretary of Homeland Security, the successor pursuant to Title 6, United States Code, Sections 202(3), 202(4) and 557, in violation of Title 8, United States Code, Section 1326.

**NOTICE OF UNITED STATES OF AMERICA'S DEMAND FOR FORFEITURE**  
**[See Fed. R. Crim. P. 32.2]**

**I.**

**Smuggling Violations and Forfeiture Statutes**

**[Title 18 U.S.C. § 554, subject to forfeiture pursuant to Title 18 U.S.C. §§ 981(a)(1)(C) and 924(d)(1) and Title 22 U.S.C. § 401(a), all made applicable to criminal forfeiture by Title 28 U.S.C. § 2461]**

As a result of the foregoing criminal violations set forth in Count One, which are punishable by imprisonment for more than one year, **DEFENDANTS JOSE FEDENCIO MENDEZ CADENA, ROBERTO LOERA, and JOSE DRISCOLL** shall forfeit all right, title, and interest in the property described below to the United States pursuant to Title 18 U.S.C. §§ 981(a)(1)(C) and 924(d)(1), and Title 22 U.S.C. § 401(a), all made applicable to criminal forfeiture by Title 28 U.S.C. § 2461, which state the following:

**Title 18 U.S.C. § 981. Civil Forfeiture**

(a)(1) The following property is subject to forfeiture to the United States:

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting "specified unlawful activity" (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense;

**Title 18 U.S.C. § 924. Penalties**

(d)(1) Any firearm or ammunition involved in or used in . . . any violation of any other criminal law of the United States . . . shall be subject to seizure and forfeiture . . . under the provisions of this chapter . . . ;

**Title 22 U.S.C. § 401 Illegal exportation of war materials**

**(a) Seizure and forfeiture of materials and carriers**

Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions of war or other articles in violation of law, or whenever it is known or there shall be probable cause to believe that any arms or munitions of war or other articles are intended to be or are being or have been exported or removed from the United States in violation of law, . . . any person duly authorized for the purpose . . . may seize and detain such arms or munitions of war or other articles . . . . All arms or munitions of war and other articles . . . seized pursuant to this subsection shall be forfeited.

This Notice of Demand for Forfeiture includes but is not limited to the properties described below in paragraph III.

**II.**

**Firearms Violations and Forfeiture Statutes**

**[Title 18 U.S.C. §§ 922(g)(5) and (k), subject to forfeiture pursuant to Title 18 U.S.C. § 924(d)(1), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461]**

As a result of the foregoing criminal violations set forth in Counts Two and Three, which are punishable by imprisonment for more than one year, **DEFENDANTS JOSE FEDENCIO MENDEZ CADENA, ROBERTO LOERA, and JOSE DRISCOLL** shall forfeit all right, title, and interest in the property described below to the United States pursuant to Title 18 U.S.C. § 924(d)(1), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461, which states the following:

**Title 18 U.S.C. § 924. Penalties**

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of . . . subsection . . . (g) . . . or . . . (k) of section 922 . . . shall be subject to seizure and forfeiture . . . under the provisions of this chapter . . . .

This Notice of Demand for Forfeiture includes but is not limited to the properties described below in paragraph III.

**III.**  
**Properties**

1. **Ruger, Model Blackhawk, .357 caliber pistol, serial number 37-22266;**
2. **Smith & Wesson, Model M&P-15 .223 caliber firearm with an obliterated serial number;**
3. **Two (2) Windham Weaponry Model WW-15 .223 caliber firearms with obliterated serial numbers;**
4. **Global Tactical Model GT-AR15 .223 caliber firearm, serial number GT 0057;**
5. **Bushmaster Model XM 15 .223 caliber firearm with an obliterated serial number; and**
6. **\$56,400.00, More or Less, in United States Currency.**

A TRUE BILL.

  
\_\_\_\_\_  
FOREPERSON OF THE GRAND JURY

ROBERT PITMAN  
UNITED STATES ATTORNEY

BY:   
MARGARET F. LEACHMAN  
Assistant United States Attorney